

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Atsushi MIYAWAKI et al.

Group Art Unit : 1656

Appl. No. : 10/516,314
(U.S. National Stage of PCT/JP03/7337)

I.A. Filed : June 10, 2003

Examiner : Jae LEE

Confirmation No: 4623

For : CHROMOPROTEIN

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
U.S. Patent and Trademark Office
Customer Window, Mail Stop Missing Parts
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Sir:

This Amendment is responsive to the Restriction Requirement mailed February 28, 2007. Inasmuch as the Restriction Requirement sets a one-month shortened statutory period for response, to end March 28, 2007, this Response is filed concurrently with a Request for a one-month Extension of Time and required fee.

Restriction Requirement

In the Restriction Requirement mailed February 28, 2007, the Examiner alleges that four distinct inventions are contained in this application, namely:

- Group I. Claim(s) 1, 2 and 10, drawn to a chromoprotein
- Group II. Claim(s) 3-7 and 10, drawn to a DNA encoding the protein of claim 1, a recombinant vector having the DNA of claim 4, and a transformant having the DNA of claim 4
- Group III. Claim(s) 8 and 10, drawn to a fusion protein
- Group IV. Claim(s) 9, drawn to a method for analyzing a physiologically active substance

Election

Applicants elect, with traverse, Group II, i.e., claims 3-7 and 10, *with traverse*.

Traverse

Notwithstanding the election of Group II in order to be responsive to the Restriction Requirement, Applicants respectfully traverse the Examiner's requirement for restriction.

Applicants respectfully point out that the claims of Group II, allegedly drawn to a polynucleotide, should be considered with the claims drawn to the protein encoded by said polynucleotide, i.e., the claims of Group I. Applicants refer to the "PCT International Search and Examination Guidelines" Part III, Chapter 10, example 39, which states that a claimed DNA molecule encoding protein X, shares a corresponding technical feature with the protein X. Accordingly, unity of invention is present between claims related to a DNA molecule and claims related to the protein encoded by said DNA molecule.

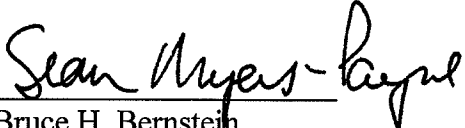
Additionally, Applicants respectfully note that the Examiner's conclusions relating to a lack of unity of invention are based entirely upon a finding that the subject matter of claim 1 is found in the prior art. Accordingly, Applicants respectfully submit that the Office will be required to withdraw the Restriction Requirement at least for claims dependent on claim 1, upon reciting subject matter in claim 1 that is not disclosed in the prior art. Still further, Applicants respectfully reserve the right to rebut any statements that the Office has made relating to the disclosure of the present invention in the prior art.

In view of the foregoing, it is respectfully requested that the Examiner reconsider the requirement for restriction, and at the very least, consider the claims of elected Group II with the claims of Group I.

Applicant hereby authorizes the charging of any additional required fees necessary for consideration of the documents cited herein to Deposit Account No. 19-0089.

Any comments or questions concerning this application can be directed to the undersigned at the telephone number given below.

Respectfully submitted,
Atsushi MIYAWAKI et al.


Bruce H. Bernstein
Reg. No. 29,027 42,920

April 24, 2007
GREENBLUM & BERNSTEIN, P.L.C.
1950 Roland Clarke Place
Reston, VA 20191
(703) 716-1191